



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/164057

PRELIMINARY RECITALS

Pursuant to a petition filed February 17, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on March 12, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly reduced the petitioner's monthly FS benefits from \$46 to \$37 effective January 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Belinda Bridges
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The petitioner's monthly social security retirement income increased to from \$1,187 to \$1,207 effective December 6, 2014.

3. The petitioner's monthly shelter costs are \$1,026.00. The petitioner is also responsible for a phone bill. All other utilities are included in the petitioner's rent.
4. Effective January 1, 2015 the agency reduced the petitioner's monthly FS benefits from \$46 to \$37.
5. On February 19, 2015 the Division of Hearings and Appeals received the petitioner's request for fair hearing.

DISCUSSION

In calculating the petitioner's FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires the county to start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a household size of 1 is \$155, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

I reviewed the agency's calculations in this case, and the calculations are correct. The petitioner received a reduction in her FS benefits when her monthly social security retirement income increased. Generally an increase in income, causes a decrease in monthly FS benefits assuming the shelter costs remain the same. That is what happened in this case. The petitioner's expenses and deductions remained the same, but her income increased, causing a decrease in her monthly FS benefits.

The petitioner made a number of constitutional arguments that were disjointed and difficult to follow. It seems that the petitioner was attempting to make a due process and equal protection argument. However, the petitioner did not fully develop or explain those arguments. Regardless neither argument applies in this case. The petitioner received her fair hearing, I reviewed the agency's calculations of her monthly FS benefits, and those calculations are correct.

As a side note it appears that the petitioner should not receive any FS benefits as she lives in an assisted living facility, and her monthly rent appears to also include her meals. This was not an issue in this particular appeal.

CONCLUSIONS OF LAW

The agency correctly reduced the petitioner's monthly FS benefits effective January 1, 2015.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

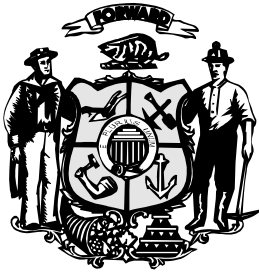
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 23rd day of March, 2015

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 23, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability